U.S. Department of Justice

United States Attorney
Eastern District of New York

MKM:MEG/KDE
F.#2014R00552

271 Cadman Plaza East
Brooklyn, New York 11201

April 6, 2017

By ECF and Hand

The Honorable Raymond J. Dearie
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Gregorio Gigliotti
Criminal Docket No. 15-204 (S-2)(RJD)

Dear Judge Dearie:

The government respectfully submits this letter in advance of sentencing in the above-captioned case, which is currently scheduled for April 18, 2017 at 11:00 a.m. For the reasons set forth below, the government respectfully submits that the Court should impose a sentence within the applicable Guidelines range of 420 months to life in prison.

I. Facts

Following a two-week trial, a jury convicted the defendant Gregorio Gigliotti and his son, Angelo Gigliotti, for their participation in a long-running cocaine importation scheme. The defendants' arrest arose out of a long-term investigation by the United States Immigration and Customs Enforcement ("ICE") and the Federal Bureau of Investigation ("FBI"), in coordination with law enforcement authorities in Italy, into a transnational cocaine trafficking operation. See Presentence Investigation Report ("PSR") ¶ 9.

The defendants were charged in the second superseding indictment with, among other offenses, conspiring to import, distribute and possess with intent to distribute cocaine between July 2014 and March 2015. See id. ¶¶ 2-6. During that time, federal law enforcement officers ("agents") intercepted and seized approximately 55 kilograms of cocaine that had been hidden inside cardboard boxes that contained cassava and sent from co-conspirators in Costa Rica to the defendants in New York. Id. ¶ 9. To facilitate their operation, the defendants used their family-run Italian restaurant in Corona, Queens, Cucino Amodo Mio, as well as a produce importation company, Fresh Farm Export Corp. ("Fresh Farm"), that was incorporated in 2012 to provide a cover for their drug-trafficking operation. Id.

On October 20, 2014, agents intercepted a shipment of cassava at the Wilmington Marine Terminal that was bound for the defendants in New York. Agents discovered cocaine inside the flaps of cardboard boxes that were marked with blue tape, and ultimately seized 160 bricks totaling 40 kilograms of cocaine from the shipment. Id. ¶ 18.

Similarly, on December 29, 2014, agents searched the next (and final) shipment bound for Fresh Farm at a port near Philadelphia and again found bricks of cocaine in the cardboard flaps of boxes with blue tape. In total, agents seized 15 kilograms of cocaine. Id. ¶ 19.

Prior to the two successful seizures, agents first intercepted a 1200-box shipment of cassava bound for the defendants on July 21, 2014 at the Wilmington Marine Terminal. Agents searched for narcotics inside many boxes, and even inside pieces of cassava, but did not know at the time to look within the flaps of the boxes, nor did they notice that some of the boxes had pieces of blue tape. As a result, the agents did not find any cocaine within the shipment and the boxes were closed and sent on to their destination in New York. Id. ¶ 15.

As demonstrated at trial, the government's investigation was based in large part on conversations intercepted through court-authorized wiretaps in the United States and Italy. During these conversations, the defendants Gregorio and Angelo Gigliotti were captured arranging for the drug shipments to arrive, discussing how money should be delivered to Costa Rica, how proceeds should be spent and threatening another co-conspirator. For instance, in July 2014, the defendant arranged for his wife (and co-defendant Eleonora Gigliotti) to travel from New York to Costa Rica to pay a drug supplier approximately $400,000 for cocaine. Id. ¶ 16. In September 2014, at Gregorio's request, Angelo contacted a Costa Rican supplier to determine the specific location of a cocaine shipment. See id. ¶ 17. Also at Gregorio's direction, Angelo sent follow-up emails regarding the whereabouts of the drugs and made travel arrangements for another co-defendant, Franco Fazio, to deliver a $170,000 payment to the supplier for that cocaine. See id. Further, on multiple occasions, Angelo, Gregorio and Eleonora Gigliotti told each other not to talk on the telephone. Id.

The defendant was arrested in New York on March 11, 2015 for conspiring to import and importing cocaine into the United States from Costa Rica. See id. ¶ 22. That same day, agents executed search warrants at the Cucino Amodo Mio restaurant as well as the defendant's home. From the restaurant, agents recovered "an arsenal of illegal unregistered weapons," i.e., one 12 gauge shotgun; one loaded .357 magnum Trooper revolver; one loaded .22 caliber Colt pistol; one loaded .38 caliber Charter Arms revolver; one 9 mm Keltec pistol; one .762 Czech pistol; one .38 caliber Derringer that had a defaced serial number; ammunition magazines; loose ammunition; two handgun holsters; brass knuckles; a handwritten ledger showing the movement of more than $350,000; and more than $100,000 in cash. Id. ¶ 21. From the home, agents recovered a loaded .45 caliber Llama handgun and more than $18,000 in cash. See id.

II. Guidelines

For the reasons set forth below, the government submits that the Guidelines calculations set forth in the PSR should be applied in so far as, for Counts One through Five and Seven, it calculates a base offense level of 34 and a four-level enhancement for possessing a leadership role and a two-level enhancement for being directly involved in the importation of cocaine. See PSR ¶¶ 36-45. The government further submits that an additional two-level enhancement is warranted pursuant to U.S.S.G. § 2D1.1(b)(2) because the defendants made credible threats to use violence in connection with the instant offense. As such, the government respectfully submits that, in light of the mandatory consecutive 60-month Guidelines range that applies to Count Six, the effective Guidelines range is 420 months to life in prison.

A. The Defendant is Responsible for 120 Kilograms of Cocaine

Although he does not dispute the Guidelines calculation, the defendant asserts that he is not responsible for 120 kilograms of cocaine, which reflects a finding that the defendant imported cocaine on several occasions between mid-2012 and December 2014. See Mar. 27, 2017 Def. Ltr., Dkt. No. 233 ("Def. Ltr."), at 2.[1] The government adopts the conservative estimate put forth by the Probation Department that the defendants should be held accountable for the importation of 120 kilograms of cocaine based on the reasoning set forth in paragraph 21 of the PSR.

Under U.S.S.G. § 1B1.3, relevant conduct in narcotics cases can include prior drug ventures where the past "trips involved similar practices and the same delivery method." United States v. Moya, 276 F. App'x 30, 32 (2d Cir. 2008) (summary order); see also United States v. Barnes, 480 F. App'x 77, 79 (2d Cir. 2012) (summary order) ("Where the amount of drugs seized from a defendant at the time of arrest . . . plainly does not represent the full scope of the charged crime, a district court may 'approximate the quantity of the controlled substance' at issue . . . by considering, among other factors, 'similar transactions in controlled substances by the defendant.'" (citing U.S.S.G. § 2D1.1 cmt. n. 12)); United States v. Fenton, 165 F.3d 15 (2d Cir. 1998) (affirming the district court's estimation of drug quantity based on testimony establishing the weights of past narcotic shipments by the defendant).

As demonstrated at trial, the shipment of cocaine that was seized in October 2014 did not mark the beginning of the conspiracy or the defendants' successful importation of cocaine into the United States. In addition to the 55 kilograms seized by agents in October 2014 and December 2014, a co-conspirator testified at trial that the defendant imported 6 kilograms of cocaine hidden in a shipment of 1,200 boxes of cassava in mid-2012. See PSR ¶ 21. Shipping records from September 2012 to July 2014 indicated the defendant used his company Fresh Farm to import 17 additional 1,200-box shipments from Costa Rica. See id. Assuming that only half of the additional shipments contained cocaine, and that each such

[1] The defendant also objects to paragraphs 10 through 14 of the PSR. See Def. Ltr. at 2. The government takes no position as to this objection.

shipment only contained 6 kilograms of cocaine (the smallest amount known to have been shipped as part of the conspiracy), the additional 17 shipments were properly estimated to contain at least 48 kilograms of cocaine. See id.

On July 21, 2014, agents searched one of the defendant's cargo containers, but found no drugs during the search. See id. ¶ 15. However, evidence admitted at trial showed that the shipment did in fact contain drugs. See id. ¶ 21. A trained canine strongly alerted to the presence of cocaine within the cartons of cassava. See id. ¶ 15. And as noted above, the drugs were hidden within the individual flaps of the boxes of cassava, which were never searched by the agents. See id. ¶ 21. This shipment also matched the pattern of previous and subsequent shipments, and certain boxes contained distinctive blue tape that the drug smugglers stated on wiretapped calls meant that those boxes contained cocaine. See id. Finally, the defendants' ledger corroborated the scheduled cocaine shipments. See id. According to the ledger, the defendant spent hundreds of thousands of dollars between August 2014 and October 2014. See id. The ledger confirmed that the source of funds were "10x32" and "1x33," meaning the July shipment contained 11 kilograms of cocaine, 10 of which were sold at $32,000 each and one that was sold for $33,000. See id.

For these reasons, the government respectfully submits that, although it does not alter the Guidelines calculation, the Court should hold the defendant responsible for importing 120 kilograms of cocaine.

B. A Two-Level Enhancement is Warranted for Making Threats

While not presently included in the Guidelines calculations set forth in the PSR, the government submits that an additional two-level enhancement is warranted based on the defendants' use of credible threats of violence in furtherance of their drug-trafficking operation. Significantly, the Probation Department incorporated the two-level enhancement in the PSR for co-defendant Eleonora Gigliotti noting that in recorded conversations, "the three Gigliottis discuss making threats to harm [co-conspirator Franco Fazio] physically if he does not repay [a] debt" that he owes. PSR for Eleonora Gigliotti ¶¶ 13, 32.

The defendant's use of threats and violence is readily apparent from numerous intercepted telephone calls. For example, in a call intercepted on August 24, 2014 between the defendant and his son Angelo, the two men talked about Fazio deserving to be beaten:

GREGORIO: Bah! Little boats. Uh, that went on four months, he can't conclusion things. He said: I got everything. He's got a fucking a, he's lucky I don't kick his ass he is. That's what I mean.

ANGELO: Why don't you, that's what I don't understand.

GREGORIO: Uh, in front of everyone here, you will look bad.

ANGELO: Yeah, that's the best way, otherwise I take a flight there, tomorrow morning I'd be there.

GREGORIO: Ha-ha.

ANGELO: I'd stay four days and I come right back.

* * *

GREGORIO: How he thinks. How the fuck does he thinks? How is he gonna pay me back? What is you think he's coming there? What is this every, how many times he's gonna do –

ANGELO: That's the thing, one hundred percent. He's a bum, a showoff that needs a fucking slap. That's what he needs.

Further, in a call intercepted on August 25, 2014, between Gregorio and Eleonora Gigliotti, Gregorio repeatedly discussed his desire to assault Fazio:

GREGORIO: . . . [Fazio] blew through 27,000 euros. That's crazy.

ELEONORA: Well, Grego', if he did things for his kids, he went around—a car—in a broken down car. He paid for his daughter's college education, that's a definite. Do you remember. . .

GREGORIO: I'll see . . . little by little, I'll see if he gave his daughter a party. No, I—Let me see what . . . 'cause you know . . . I'm going to send him to the hospital for six months. I'm going to make sure he does six months in the hospital. This guy is going to remember my name.

***

GREGORIO: If we're talking five or six thousand, okay. I don't mind. But . . . for him to take twenty thousand dollars, like hell, I'll grab him and beat the crap out of him.

***

GREGORIO: He has no shame, yeah, number one. He is just like my stupid father. Uh forget it, let's hope he is able to get 20 ... but the 20, after I close the deed, I am going to ask if it is true uncle Milia [Emilio] is going to let me stay here, don't fool me. He dropped the question, how did it go that you got it, are you fooling me. At that moment. . . . ba-boom, boom! I'll throw him on the ground I'll beat him up so badly, I'll leave him in the middle of the square. And then let his brother come, 'cause if his brother does dare to come, I'll just shoot his brother. Hum! He better be careful.

ELEONORA: In my opinion they did use it together.

GREGORIO: Eh, I have to see. I am about to . . . I'm going to go to the bank, see if he has any mortgage left to pay or if he paid the whole thing and when he paid it.

ELEONORA: Angelo wants to come. Heh-heh.

GREGORIO: [pause] Come, for what we will look like shit.

ELEONRA: Well, you, too. Hurting him in front of his kids, Grego', we're going to look bad.

GREGORIO: Who the fuck cares if I hurt him in front of them. What the fuck do I care. Who cares.

During a call intercepted on August 27, 2014, Angelo and Gregorio discussed further acts of violence to be made against Fazio:

GREGORIO: Okay? He said, Okay. No problem. But why? Why? Nothing, I don't need to tell them my fucking business and how I do things. Uh, he got a slap in the car! Pah!

ANGELO: Yeah?

GREGORIO: Yeah, I smacked him. He didn't say anything! He started to cry like a baby. You know the babies when they cry.

ANGELO: Yeah!

GREGORIO: [Mimics crying] He was like: "I didn't tell you because you would say no." And I said: "How are you going to get all this money back for me! How the hell! How the hell am I going to do that! You want people to kill me! You took money as it was yours!" He said: "I had to give eleven thousand euro to the lawyer for my son." I said: "Eleven thousand dollars to the lawyer? For what? What the fuck did he do? Did he commit a homicide?" I said. And that's it. I said okay, "compare took forty-six, forty-six! There are twelve missing! Twelve are missing. So, what do you care twelve are missing, twelve you can deduct from you are doing my bathrooms here. I can deduct that money. You will have to build me two bathrooms and two kitchens! And don't tell me you are going to come and then you don't show up! Once you start, you have to finish! Or things here are not going to end badly. And I am keeping my sons calm over there 'cause they want to come and kick yours and your brother's ass! They said the two of you are plotting. He said, "No. That's, no! You go change my son's mind, go ahead. You go change it!" He was·shitting his pants. "No, I'm going to give you back everything to the last penny." Yeah! When? In thirty years? Ha! What the--"You deserve to be killed. You deserve to be killed for something like this! Not beaten but killed."

On August 29, 2014, Gregorio relayed to Eleonora that Fazio had in fact been assaulted Fazio:

ELEONORA: He didn't give you the money yesterday right?

GREGORIO: No. I went to see him yesterday. He calls, says I am on my way. You're coming, my ass I said? What coming? You wanna see what I am going to do to you, I am going to slap you right here in the square. Huh. You're coming what coming???? He has a fucken face. They did punch him out right there in the car.

ELEONORA: Yeah?

GREGORIO: Yeah! Right there in the car.

ELEONRA: Yeah.

GREGORIO: He started crying.

ELEONORA: Yeah.

GREGORIO: He started crying like an old man.

ELEONORA: And what did he say?

GREGORIO: His nose started bleeding. All of the sudden, boom, as he was getting up, right in the mouth, then I grabbed him with one finger, go fuck yourself! I told him, I am going to kill you. Don't think I am afraid of you or your brother. Hum [UI] they gave him a good beating. I would've never expected you would do something like that to me. Or do you think I left word that I wasn't going to give you anything. You should have done it for me for free that's what you should have done. I've always [UI] I told him.

ELEONORA: Yeah.

GREGORIO: He started crying.

Gregorio again reported that he wanted to assault Fazio on another call intercepted between Gregorio and Eleonora:

GREGORIO: Okay. [clears throat] Today people came here [UI]. And he called--So it was him who called them.

ELEONORA: Franco, Franco.

GREGORIO: Yeah. Eh. I told him, “You come here [UI] and take them home. [UI] tell him. I don’t want to see them. I told him. But now that-hey! [UI] all pissed off! “You . . . [UI] I’ll break your head.” [pause] I told you I didn’t want to see anybody, that”s all. [pause] Huh! [pause] Fuck you! You're shit!

***

ELEONORA: Tell him [UI] six months in the hospital, you should say.

GREGORIO: Hmmm.

ELEONORA: This way he’ll learn. Fuckin’ neck [UI] Go wearing masks and [UI] he'll learn ... ‘cause he’s a louse, disrespectful, brazen, rude, disgusting. Really disgusting. Disgusting. At least he should have had the nerve to call you. To call you and say, “Grego’, I’m in trouble ... in danger ... I fucked up.” Nothing! He thinks who he is.

Similarly, in a call intercepted on September 9, 2014, between Gregorio and Eleonora Gigliotti, Eleonora reported a specific threat that she had conveyed to Fazio, who was in the United States at the time:

GREGORIO: O.K. Very good! Give twelve hundred to Franco, twelve hundred is enough for him. Don’t make this douchebag rich!

ELEONORA: This morning he called and he was like, “I’m embarrassed.” I told him, “O.K. enough. If Angelo says something to you, shut up and listen to him otherwise he would break your arms.”

Again on September 19, 2014 in a call between the defendant and his father, the two men talked about verbally abusing Fazio:

GREGORIO: All right? Keep an eye on him.

ANGELO: Yeah, when you get back.

GREGORIO: When I come back, we’ll straighten everything up.

ANGELO: We don’t even let him drive the vehicle, only to come to work. I told him today take all the keys. I don’t want him no driving [UI] keys if he wants no. He can walk if he wants!

GREGORIO: Yeah. Yeah. No give him no car, nothing.

ANGELO: Nothing.

GREGORIO:	He’s gotta. He’s gotta feel it. He’s gotta feel it, they gotta feel something.
ANGELO:	No problem. Don’t worry about it. What me and Andrea do to him every day. He’s feeling it.
GREGORIO:	All right, no raise hands on him, Ang.
ANGELO:	Noooo! We verbally abuse him.

Finally, during a call intercepted between Angelo and Gregorio, the men discussed further acts of violence to be made against Fazio:

GREGORIO:	On Thursday I told him, “Fra’. Uh, we have a situation. There’s a big difference between 5,000 and 27,000. How can you repay me such 27,000? My son wants to depart from American and kick your ass in the middle of the square, that way everybody will understand what kind of person you are.” . . . Do you know how much time I spend drinking with him at the table? If I do not get drunk . . . because if I will get drunk I will grab the bottle and crash it on his head. This is it. . . . He maybe won’t sign the papers and then I have to kill him.

In short, ample evidence demonstrates that the defendant “used violence, made a credible threat to use violence, or directed the use of violence.” U.S.S.G. § 2D1.2(b)(2). As such, a two-point enhancement is warranted.

C. Guidelines Calculation

In light of the foregoing, the government respectfully requests that the Court calculate the applicable Guidelines range as follows:

1. Counts One through Five and Seven

Because the adjusted offense levels for Counts One through Five (narcotics offenses), and Seven (possession of a defaced firearm) are grouped pursuant to U.S.S.G. § 3D1.2(d), the government submits that the following Guidelines calculation should be applied as to these counts:

Base Offense Level (§ 2D1.1(c)(3))	34
Plus: Direct Involvement in Importation (§ 2D1.1(b)(15)(C))	+2
Plus: Aggravating Role Adjustment (§ 3B1.1(a))	+4
Plus: Credible Threats of Violence (§ 2D1.1(b)(2))	+2

Total: 42

Based on a Criminal History Category of I, the defendant's Guidelines range for Counts One through Five and Seven is 360 months to life in custody.

2. Count Six

Count Six is precluded from being grouped with the above counts pursuant to U.S.S.G. § 3D1.1(b)(1). The Guidelines sentence for Count Six is the statutory minimum term of imprisonment, which is 60 months, which must be served consecutively to the sentence imposed for Counts One through Five and Seven.

3. Effective Guidelines Range

In light of the foregoing, the government respectfully submits that the effective Guidelines range for all counts of conviction is 420 months to life in prison.

III. A Guidelines Sentence is Appropriate

After consideration of the Guidelines and the factors set forth in 18 U.S.C. § 3553(a), the Government respectfully submits that a sentence within the Guidelines range of 420 months to life in prison is warranted.

First, the nature of the offense is extremely serious. See 18 U.S.C. § 3553(a)(1), (2)(A). The defendant was convicted for leading a long-running and sophisticated cocaine importation conspiracy. The defendant used a hard-to-detect method of importing a powerful narcotic to be distributed on the streets of New York. Indeed, the defendant was able to import cocaine in this fashion for several years without being caught. The defendant coordinated directly with drug suppliers, directed family members to track his drug shipments, deliver hundreds of thousands of dollars in cash, and imported multi-kilogram quantities for years.

In furtherance of the illegal operation, the defendant possessed an "arsenal of illegal unregistered weapons" for use in his narcotics trafficking organization. In addition to the illegal firearms, holsters, and hundreds of rounds of ammunition, the defendant possessed brass knuckles and cocaine within the basement of his Cucino Amodo Mio restaurant. In such circumstances, the defendant's long-time participation in a well-established narcotics conspiracy makes him more culpable than the typical drug dealer, and thus warrants a sentence greater than the statutory minimum sentence requested by the defendant.

Second, the need for both specific and general deterrence is substantial. See id. § 3553(a)(2)(B), (C). As mentioned, the defendant imported cocaine on numerous occasions between mid-2012 and March 11, 2015. Without substantial punishment, the defendant is apt to re-offend. Similarly, the need to deter others from similar misconduct is great. The importation of narcotics through such deceptive concealment presents a serious problem for this District. Those who knowingly import hundreds of thousands of dollars of drugs need to know that they face a significant sentence of incarceration.

Third, there is a need to promote respect for the law, especially the defendant's respect for the law. See id. § 3553(a)(2)(A). The defendant has neither expressed remorse nor accepted responsibility for his crimes. Additionally, the defendant has made no assurances that he will not commit any further crimes. This attitude has only been confirmed by the defendant's failure to file his personal income tax return for 2014. But for being caught, the defendant would probably still be distributing a deadly drug throughout the streets of New York. This too warrants a substantial sentence.

Fourth, the defendant's personal circumstances do not warrant a below-Guidelines sentence. To be sure, the Court may consider the defendant's health and familial relationships. But the government submits that these hardships, though unfortunate, do not sufficiently differentiate the defendant from typical drug offenders. Indeed, the defendant's conduct is much more reprehensible because he has not only involved himself in cocaine importation, but he has also involved his wife and son. And although the defendant may be older than many other drug offenders, his undoubtedly serious health conditions have not appeared to affect or deter his participation in his narcotics trafficking organization.

In short, the defendant is more culpable than the typical drug dealer. He has coordinated multiple drug shipments and is similarly situated to many other drug organizers who import narcotics. These are precisely the circumstances that warrant a sentence within the Guidelines range of 420 months to life in prison.

IV. Forfeiture

In addition to a term of imprisonment, the government respectfully requests that the Court enter a criminal forfeiture money judgment pursuant to Fed. R. Crim. P. 32.2(b)(1) and (b)(4), and 21 U.S.C. § 853. For the reasons set forth below, the government requests the entry of a Preliminary Order of Forfeiture (the "Preliminary Order") against the defendant seeking a forfeiture money judgment in the amount of $1,652,000.00, as well as the forfeiture of various assets as set-forth in the proposed Preliminary Order, a copy of which is attached hereto. Defense counsel has indicated that although she has not determined her final position as to forfeiture, she anticipates that the defendant will consent to the forfeiture of the items already seized by the government by not to the imposition of a forfeiture money judgment.

A. Forfeiture Legal Standard

Pursuant to 21 U.S.C. § 853(a), a defendant convicted of any narcotics crime, including importation, possession with intent to distribute or conspiracy to commit any such federal criminal violations of Title 21, must forfeit "any property constituting, or derived from proceeds obtained, directly or indirectly, as a result of [a violation of Title 21], and any property used or intended to be used, in any manner or part, to commit, or to facilitate the commission of such a violation." See also 18 U.S.C. § 3554.

It is well established that the government only is required to establish the forfeitability of property or money as a result of those offenses by a preponderance of the evidence. See United States v. Fruchter, 411 F.3d 377, 383 (2d Cir. 2005) ("Booker and Blakely [do not] require proof beyond a reasonable doubt in open-ended punishment schemes, such as [criminal] forfeiture."). In drug trafficking cases, such as in the present case, the Second Circuit has expressly upheld the calculation of the forfeiture money judgment amount based on gross sales proceeds rather than gross profits. See United States v. Colon, 522 Fed. Appx. 61, 63 (2d Cir. 2013) (upholding forfeiture calculation based on gross proceeds of the sale of narcotics); United States v. Roberts, 660 F.3d 149, 165-67 (2d Cir. 2011) (using the wholesale value of imported drugs as a multiplier is appropriate unless there is evidence of street-level distribution in which case retail value is the appropriate multiplier); United States v. Bourne, 2012 WL 526721 at *3-4 (E.D.N.Y. 2012) (Garaufis, J.) (district court used wholesale value of shipments for calculation in a continued criminal enterprise case); see also United States v. Basciano, 2007 WL 29439 at * 2 (E.D.N.Y. 2007) (Garaufis, J.) ("Although the total amount of forfeited assets may be determined by 'conservatively estimating' the revenue regularly collected or received, the evidence of such revenue may not be overly speculative.") (cases cited therein omitted).

B. The Court Should Impose a Forfeit Money Judgment of $1,652,000.00

In this case, the trial evidence, including the testimony of co-conspirator, Andrew Tabarovksy, law enforcement agents (including an expert in the price of narcotics), and physical evidence collectively demonstrated that a forfeiture money judgment in the amount of approximately $1,652,000.00 is a conservative computation of the proceeds of the defendant's crimes.

1. Quantity of Narcotics

As set forth above, the government submits that the defendant is responsible for importing 120 kilograms of cocaine. Nonetheless, the government seeks a forfeiture money judgment based on the more conservative calculation of 59 kilograms, which excludes the 55 kilograms that were seized by law enforcement during the investigation and the six kilograms of cocaine imported in collaboration with co-conspirator Andrew Tabarovsky in 2012.[2]

2. Retail Value of Cocaine

At trial, Tabarovsky testified that in 2012, in Costa Rica a kilogram of cocaine (including importation expenses) cost between $8,500 and $10,000, and that each kilogram of cocaine could be sold in New York for $30,000. (Trial Tr. 390-92). Similarly, Special Agent Brian Fitzpatrick of the Suffolk County District Attorney's Office, assigned to the Drug Enforcement Administration Task Force, testified that in the fall or winter of 2014, the average wholesale value of a kilogram of cocaine in Costa Rica was "approximately $7,000 or $8,000," and that the average wholesale price of a kilogram of cocaine in New York City was "anywhere between $28,000 and $35,000." (Id. 1303-05).

---

[2] In order to be consistent with the money judgment amount agreed to by defendant Eleonora Gigliotti and sought for Gregorio Gigliotti, the government is not seeking a money judgment from defendant Angelo Gigliotti with respect to the six kilograms of cocaine imported in collaboration with Andrew Tabarovsky in 2012 (which did not involve Eleonora). Further, the Eleonora, Gregorio and Angelo Gigliotti Preliminary Orders (or proposed orders) all indicate that all three defendants will be jointly and severally liable.

Based on the quality of cocaine and its value, the government seeks a conservative forfeiture money judgment of $1,652,000.00. This figure is based on the following calculation:

Street Value	Quantity of Cocaine	Money Judgment
$28,000 a kilogram x	11 kilograms (July 2014 shipment)	= $308,000
$28,000 a kilogram x	48 kilograms (Other Fresh Farm Shipments)	= $1,344,000
Total:	59 kilograms	= $1,652,000

Accordingly, it is respectfully submitted that based on the evidence presented at trial, a conservative forfeiture money judgment in the amount of $1,652,000.00, representing the proceeds of the defendants' cocaine importation and possession offenses has been established by a preponderance of the evidence.

V. Conclusion

For the foregoing reasons, the government respectfully requests that the Court impose a sentence that is sufficient, but not greater than necessary, to achieve the goals of sentencing, see 18 U.S.C. § 3553(a)(2), which, in this case, is 420 months to life in prison. The government further submits that the Court enter the enclosed proposed preliminary order of forfeiture.

Respectfully submitted,

BRIDGET M. ROHDE
Acting United States Attorney

By: /s/
Margaret E. Gandy
Keith D. Edelman
Assistant U.S. Attorneys
718-254-6213/6328

cc: Elizabeth E. Macedonio, Esq. (by ECF)
Sindee J. Haasnoot, United States Probation Officer (by e-mail)

Encl.